IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 3476 of 2005
With
FIRST APPEAL No. 3477 of 2005
To
FIRST APPEAL No. 3481 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE P.B.MAJMUDAR

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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DY.COLLECTOR & LAQ OFFICER & REHABILITATION (IRRIGATION)
Versus
MITHABHAI MANJIBHAI

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Appearance :
MR ND GOHIL, AGP for Appellant.
RULE SERVED for Opponent.

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CORAM : HONOURABLE MR.JUSTICE P.B.MAJMUDAR

Date : 31/07/2006

ORAL JUDGMENT

The State has preferred all these appeals under Section 54 of the Land Acquisition Act read with Section 96 of the Civil Procedure Code.

By filing these appeals, the State has challenged the judgement and order passed by the reference Court in Land Reference Case No. 101/1993 as well as Land Reference Cases Nos. 90/1993 to 94/1993. By the impugned order, learned trial Jude has partly allowed aforesaid references and awarded additional compensation at the rate of Rs.14/- per sq.mtr. for Bagayat land and Rs.10/- per sq.mtr. for Jirayat land. Learned trial Judge has also granted solatium and interest as per the provisions of the Land Acquisition Act. Since by common judgement learned trial Judge has disposed of the aforesaid references and since common evidence was led and considering the fact that the point involved in all these appeals is common, all these appeals are disposed of by this common judgement.

Certain agricultural lands of village–Sajanavadar, Taluka – Gadhiya were sought to be acquired for the purpose of Malpara Irrigation Scheme. For that purpose, notification under Section 4 of the Act was published on 21-5-1993, which was followed by notification under Section 6 of the Act, which was issued on 30-8-1993 and the award was declared by the Land Acquisition Officer on 13-9-1993. The Land Acquisition Officer granted Rs.150/- per Are so far as Jirayat land is concerned and Rs.200/- per Are so far as Bagayat land is concerned. Since the claimants were not satisfied with said award, at their request references were made to the District Court under Section 18 of the Act, which were numbered as Land Reference Case No.90/1993 to 94/1993 and Land Reference Case No.101/1993. Before the District Court, the claimants have prayed that compensation at the rate of Rs.1600/- per Are may be granted. Learned trial Judge decided all the aforesaid reference cases together.

This Court has also called for record and proceedings, which is

available for the perusal of the Court.

On behalf of the claimants, one Devrajbhai Chhaganbhai was examined at Exh.20 . Said witness has produced revenue record at Exh.21 and Exh.22. One Veljibhai Dharamshibhai was also examined on behalf of the claimants at Exh.23. Said witness has produced a previous judgement at Exh.40 delivered in First Appeal No.1576/2001 to First Appeal No.1579/2001. While Exh.41 is the judgement delivered in Land Reference Case No.70/1993 to Land Reference Case No.73/1993.

On behalf of the acquiring body, one Ramjibhai Ukhabhai Solanki was examined at Exh.42.

After appreciating the evidence on record, learned trial Judge held that the compensation granted by the Land Acquisition Officer is not adequate. Learned trial Judge granted additional amount of Rs.14/- per sq.mtr. for Bagayat land and Rs.10 per sq.mtr. for Jirayat land. In this connection, learned trial Judge has referred to previous judgement delivered by this Court in First Appeal No.1573/2001 to First Appeal No.1579/2001 which were preferred against the judgement and order delivered in Land Reference Case No.70/1993 to Land Reference Case No.73/1993. In the aforesaid case, reference Court granted Rs.2,000/- for Bagayat land against which appeal was preferred before this High Court by the acquiring body. The High Court granted Rs.1544.10 ps. per Are for Bagayat land and Rs.1158.07 ps., for Jirayat land. Notification under Section – 4 of the Act was issued on 26-11-1992 in the aforesaid proceedings, while in the present proceedings notification under Section 4 of the Act was issued on 21st May, 1993.

Mr.N.D.Gohil, learned AGP has frankly submitted that the

geographical distance between the land covered in the aforesaid case and the land involved in the present case is not much.

In the instant case, the trial Court has considered documentary evidence regarding fertility of the lands in question. Learned trial Judge has also considered the award at Exh.41, awarded in Land Reference Case No.70/1993 to Land Reference Case No.73/1993, as well as the judgement of this Court at Exh.40 delivered in First Appeal No.1576/2001 to First Appeal No.1579/2001. After considering the evidence of the witness – Veljibhai, who has stated that his land and the lands of the present claimants are nearby and also after considering the judgement referred above, learned trial Judge has granted additional compensation as stated earlier.

Accordingly, learned trial Judge has considered Rs.1544/- as appropriate value for Bagayat land and granted 10% additional amount and has fixed Rs.1621/- as appropriate price for Bagayat land and, for Jirayat land, the price was fixed at Rs.1205/- per Are as the learned trial Judge found that 25% less amount is required to be given for Jirayat land as compared to Bagayat land.

Considering the fact that the lands acquired in both the proceedings are near to each other and they are acquired for the same project, in my view, learned trial Judge has rightly fixed the aforesaid valuation. Regarding fertility of the land, witness has stated that various crops were used to be cultivated in the lands in question, which is supported by revenue record. Therefore, in my view, learned trial Judge has rightly fixed the value of the land in question by taking as basis the decision of this Court delivered in First Appeal No.1576/2001 to First Appeal No.1579/2001. Learned trial Judge has granted Rs.14/- per

sq.mtr. for Bagayat land and Rs.10/- per sq.mtr. for Jirayat land as additional amount of compensation.

Considering the reasonings given by the trial Court and considering the documentary as well as oral evidence on record, I find that the award of the Reference Court is just and proper and the same is not required to be interfered with by this Court.

Mr.N.D.Gohil, learned AGP is also not in a position to substantiate his say that the amount fixed by the reference Court is too high.

Considering the aforesaid aspect of the matter, I do not find any substance in these appeals. Hence, all these First Appeals are dismissed with no order as to costs.

Record and proceedings to be sent back.

(P.B.MAJMUDAR, J.)

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